

1 Steve W. Berman (*pro hac vice*)
2 *steve@hbsslaw.com*
3 HAGENS BERMAN SOBOL
4 SHAPIRO LLP
5 1918 Eighth Avenue, Suite 3300
6 Seattle, WA 98101
7 Telephone: (206) 268-9320
8 Facsimile: (206) 623-0594

6 Marc M. Seltzer, Bar No. 054534
7 *mseltzer@susmangodfrey.com*
8 SUSMAN GODFREY L.L.P.
9 1901 Avenue of the Stars, Suite 950
10 Los Angeles, CA 90067-6029
11 Telephone: (310) 789-3102
12 Facsimile: (310) 789-3006

11 Frank M. Pitre, Bar No. 100077
12 *fpitre@cpmlegal.com*
13 COTCHETT, PITRE & MCCARTHY, LLP
14 840 Malcolm Road, Suite 200
15 Burlingame, CA 94010
16 Telephone: (650) 697-6000
17 Facsimile: (650) 697-0577

15 *Interim Lead Counsel for the Economic Loss*
16 *Plaintiffs*

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 SOUTHERN DIVISION

20 IN RE: TOYOTA MOTOR CORP.
21 UNINTENDED ACCELERATION
22 MARKETING, SALES PRACTICES,
23 AND PRODUCTS LIABILITY
24 LITIGATION

Case No. 8:10ML2151 JVS (FMOx)

**ECONOMIC LOSS PLAINTIFFS'
BELLWETHER CLASS AND CLASS
REPRESENTATIVE IDENTIFICATION**

24 This Document Relates To:

25 ALL CASES

Date: October 11, 2011

Time: 9:00 a.m.

Ctrm: 10C

Judge: Hon. James V. Selna

27
28

ECONOMIC LOSS PLAINTIFFS' BELLWETHER CLASS
AND CLASS REPRESENTATIVE IDENTIFICATION

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I. THE PROPOSED CLASSES

For purposes of the Economic Loss Bellwether trial and initial class motions, the Economic Loss Plaintiffs identify the proposed Classes set forth below. Discovery is ongoing and may reveal the need to alter the Class definitions. Therefore, Plaintiffs reserve the right to amend the definitions at the time of moving for class certification to conform to facts adduced during the course of discovery.

A. The Proposed Bellwether Consumer Class and Subclasses

The Economic Loss Plaintiffs identify the following proposed Bellwether Consumer Class:

All persons or entities who both resided in, and purchased or leased in, the states of California, Florida or New York a Toyota vehicle manufactured, designed or sold with ETCS.¹

Excluded from the Proposed Bellwether Consumer Class are Defendants, their employees, co-conspirators, officers, directors, legal representatives, heirs, successors and wholly or partly owned subsidiaries or affiliated companies; class counsel and their employees; and the judicial officers and their immediate family members and associated court staff assigned to this case, and all persons within the third degree of relationship to any such persons. Also excluded are any individuals claiming damages from personal injuries or wrongful death arising from an SUA incident.

¹ The Toyota vehicles at issue are identified in Appendix A hereto.

1 The applicable legal claims for the Proposed Bellwether Consumer Class are as
2 follows:

- 3 • Violation of the Consumer Legal Remedies Act (“CLRA”), CAL. CIV.
4 CODE § 1750, *et seq.*
- 5 • Violation of the California Unfair Competition Law, CAL. BUS. & PROF.
6 CODE § 17200, *et seq.*
- 7 • Violation of the California False Advertising Law, CAL. BUS. & PROF.
8 CODE § 17500, *et seq.*
- 9 • Breach of Express Warranty in violation of CAL. COM. CODE § 2313.
- 10 • Breach of Implied Warranty of Merchantability in violation of CAL. COM.
11 CODE § 2314.
- 12 • Breach of Contract/Common Law Warranty.
- 13 • Fraud by Concealment.
- 14 • Violation of the Song-Beverly Consumer Warranty Act for Breach of
15 Express Warranties (CAL. CIV. CODE §§ 1793.2(D) & 1791.2) (only for
16 class members who resided and purchased/leased in California).
- 17 • Violation of the Song-Beverly Consumer Warranty Act for Breach of
18 Implied Warranty of Merchantability (CAL. CIV. CODE §§ 1792 &
19 1791.1) (only for class members who resided and purchased/leased in
20 California).
- 21 • Violation of Magnuson-Moss Warranty Act (15 U.S.C. § 2301, *et seq.*).
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1 The Economic Loss Plaintiffs also identify the following proposed Bellwether
2 Consumer Subclasses (the applicable legal claim for each Subclass is violation of the
3 California Unfair Competition Law , CAL. BUS. & PROF. CODE § 17200, *et seq.*):

4 **1. The Sticky Pedal TREAD Act Subclass**

5 All persons or entities who, from January 17, 2008 to
6 January 27, 2010, resided in and purchased or leased in the
7 states of California, Florida or New York the following
8 models and model years: 2007-10MY Tundra; 2008-
9 10MY Sequoia; 2005-10MY Avalon; 2007-10MY Camry;
10 2009MY Camry HV; 2009-10MY Corolla; 2009-10MY
11 Matrix; 2009-10MY RAV4; and 2010MY Highlander.

12 **2. The Pedal Entrapment TREAD Act Subclass**

13 All persons or entities who, from December 15, 2005 to
14 October 5, 2009, resided in and purchased or leased in the
15 states of California, Florida or New York the following
16 models and model years: 2007-11MY Camry; 2005-10MY
17 Avalon; 2004-09MY Prius; 2005-10MY Tacoma; 2007-
18 10MY Tundra; 2007-10MY Lexus ES350; 2006-10MY
19 Lexus IS250/350; 2008-10MY Highlander; 2009-10MY
20 Corolla; 2009-10MY Venza; and 2009-10MY Corolla
21 Matrix.

B. The Proposed Alternative Bellwether Consumer Classes

In the event that the Court chooses not to certify a single Class of California, Florida and New York residents and purchasers/lessees alleging the application of California law, the Economic Loss Plaintiffs identify the following three Proposed Bellwether Consumer Classes and associated Subclasses in the alternative:

1. The Proposed Bellwether California Consumer Class

All persons or entities who both resided in, and purchased or leased in, the State of California a Toyota vehicle manufactured, designed or sold with ETCS.²

Excluded from the Proposed Bellwether California Consumer Class are Defendants, their employees, co-conspirators, officers, directors, legal representatives, heirs, successors and wholly or partly owned subsidiaries or affiliated companies; class counsel and their employees; and the judicial officers and their immediate family members and associated court staff assigned to this case, and all persons within the third degree of relationship to any such persons. Also excluded are any individuals claiming damages from personal injuries or wrongful death arising from an SUA incident.

The applicable legal claims for the Proposed Bellwether California Consumer Class are as follows:

- Violation of the Consumer Legal Remedies Act (“CLRA”), CAL. CIV. CODE § 1750, *et seq.*

² The Toyota vehicles at issue are identified in Appendix A hereto.

- 1 • Violation of the California Unfair Competition Law, CAL. BUS. & PROF.
2 CODE § 17200, *et seq.*
- 3 • Violation of the California False Advertising Law, CAL. BUS. & PROF.
4 CODE § 17500, *et seq.*
- 5 • Breach of Express Warranty in violation of CAL. COM. CODE § 2313.
- 6 • Breach of Implied Warranty of Merchantability in violation of CAL. COM.
7 CODE § 2314.
- 8 • Breach of Contract/Common Law Warranty.
- 9 • Fraud by Concealment.
- 10 • Violation of the Song-Beverly Consumer Warranty Act for Breach of
11 Express Warranties (CAL. CIV. CODE §§ 1793.2(D) & 1791.2).
- 12 • Violation of the Song-Beverly Consumer Warranty Act for Breach of
13 Implied Warranty of Merchantability (CAL. CIV. CODE §§ 1792 &
14 1791.1).
- 15 • Violation of Magnuson-Moss Warranty Act (15 U.S.C. § 2301, *et seq.*).

16 The Economic Loss Plaintiffs also identify the following proposed Bellwether
17 California Consumer Subclasses (the applicable legal claim for each Subclass is
18 violation of the California Unfair Competition Law , CAL. BUS. & PROF. CODE §
19 17200, *et seq.*):

20 **a. The Sticky Pedal TREAD Act Subclass**

21 All persons or entities who, from January 17, 2008 to
22 January 27, 2010, resided in and purchased or leased in the
23 State of California the following models and model years:

2007-10MY Tundra; 2008-10MY Sequoia; 2005-10MY
Avalon; 2007-10MY Camry; 2009MY Camry HV; 2009-
10MY Corolla; 2009-10MY Matrix; 2009-10MY RAV4;
and 2010MY Highlander.

b. The Pedal Entrapment TREAD Act Subclass

All persons or entities who, from December 15, 2005 to
October 5, 2009, resided in and purchased or leased in the
State of California the following models and model years:
2007-11MY Camry; 2005-10MY Avalon; 2004-09MY
Prius; 2005-10MY Tacoma; 2007-10MY Tundra; 2007-
10MY Lexus ES350; 2006-10MY Lexus IS250/350; 2008-
10MY Highlander; 2009-10MY Corolla; 2009-10MY
Venza; and 2009-10MY Corolla Matrix.

2. The Proposed Bellwether Florida Consumer Class

All persons or entities who both resided in, and purchased
or leased in, the State of Florida a Toyota vehicle
manufactured, designed or sold with ETCS.³

Excluded from the Proposed Bellwether Florida Consumer Class are
Defendants, their employees, co-conspirators, officers, directors, legal
representatives, heirs, successors and wholly or partly owned subsidiaries or
affiliated companies; class counsel and their employees; and the judicial officers and

³ The Toyota vehicles at issue are identified in Appendix A hereto.

1 their immediate family members and associated court staff assigned to this case, and
2 all persons within the third degree of relationship to any such persons. Also
3 excluded are any individuals claiming damages from personal injuries or wrongful
4 death arising from an SUA incident.

5
6 The applicable legal claims for the Proposed Bellwether Florida Consumer
7 Class are as follows:

- 8 • Violation of the Florida Deceptive and Unfair Trade Practices Act, FLA.
9 STAT. § 501.201, *et seq.*
- 10 • Breach of Express Warranty in violation of FLA. STAT. § 672.313.
- 11 • Breach of the Implied Warranty of Merchantability in violation of FLA.
12 STAT. § 672.314.
- 13 • Breach of Contract/Common Law Warranty.
- 14 • Fraud by Concealment.
- 15 • Violation of Magnuson-Moss Warranty Act (15 U.S.C. § 2301, *et seq.*).

16
17 The Economic Loss Plaintiffs also identify the following proposed Bellwether
18 Florida Consumer Subclasses (the applicable legal claim for each Subclass is
19 violation of the Florida Deceptive and Unfair Trade Practices Act, FLA. STAT. §
20 501.201, *et seq.*):

21
22 **a. The Sticky Pedal TREAD Act Subclass**

23 All persons or entities who, from January 17, 2008 to
24 January 27, 2010, resided in and purchased or leased in the
25 State of Florida the following models and model years:
26 2007-10MY Tundra; 2008-10MY Sequoia; 2005-10MY

Avalon; 2007-10MY Camry; 2009MY Camry HV; 2009-
10MY Corolla; 2009-10MY Matrix; 2009-10MY RAV4;
and 2010MY Highlander.

b. The Pedal Entrapment TREAD Act Subclass

All persons or entities who, from December 15, 2005 to
October 5, 2009, resided in and purchased or leased in the
State of Florida the following models and model years:
2007-11MY Camry; 2005-10MY Avalon; 2004-09MY
Prius; 2005-10MY Tacoma; 2007-10MY Tundra; 2007-
10MY Lexus ES350; 2006-10MY Lexus IS250/350; 2008-
10MY Highlander; 2009-10MY Corolla; 2009-10MY
Venza; and 2009-10MY Corolla Matrix.

3. The Proposed Bellwether New York Consumer Class

All persons or entities who both resided in, and purchased
or leased in, the State of New York a Toyota vehicle
manufactured, designed or sold with ETCS.⁴

Excluded from the Proposed Bellwether New York Consumer Class are
Defendants, their employees, co-conspirators, officers, directors, legal
representatives, heirs, successors and wholly or partly owned subsidiaries or
affiliated companies; class counsel and their employees; and the judicial officers and
their immediate family members and associated court staff assigned to this case, and

⁴ The Toyota vehicles at issue are identified in Appendix A hereto.

1 all persons within the third degree of relationship to any such persons. Also
2 excluded are any individuals claiming damages from personal injuries or wrongful
3 death arising from an SUA incident.

4 The applicable legal claims for the Proposed Bellwether New York Consumer
5 Class are as follows:

- 6 • Deceptive Acts or Practices in violation of N.Y. GEN. BUS. LAW § 349.
- 7 • False Advertising in violation of N.Y. GEN. BUS. LAW § 350.
- 8 • Breach of Express Warranty in violation of N.Y. U.C.C. § 2-313.
- 9 • Breach of the Implied Warranty of Merchantability in violation of N.Y.
10 U.C.C. § 2-314.
- 11 • Breach of Contract/Common Law Warranty.
- 12 • Violation of Magnuson-Moss Warranty Act (15 U.S.C. § 2301, *et seq.*).

13
14
15 **C. The Proposed Bellwether Commercial Economic Loss Class**

16 The Economic Loss Plaintiffs identify the following proposed Bellwether
17 Commercial Economic Loss Class:

18 All individuals or entities that both resided in, and
19 purchased or leased in, the State of California a Toyota
20 vehicle with ETCS and were engaged in the business of
21 vehicle sales or rentals for those vehicles.⁵

22 Excluded from the Proposed Bellwether Commercial Economic Loss Class are
23 Defendants, their employees, co-conspirators, officers, directors, legal
24

25
26 _____
27 ⁵ The Toyota vehicles at issue are identified in Appendix A hereto.

1 representatives, heirs, successors and wholly or partly owned subsidiaries or
2 affiliated companies; class counsel and their employees; and the judicial officers and
3 their immediate family members and associated court staff assigned to this case, and
4 all persons within the third degree of relationship to any such persons.
5

6 The applicable legal claims for the Proposed Bellwether Commercial Economic
7 Loss Class are as follows:

- 8 • Violation of the California Unfair Competition Law, CAL. BUS. & PROF.
9 CODE § 17200, *et seq.*
- 10 • Violation of the California False Advertising Law, CAL. BUS. & PROF.
11 CODE § 17500, *et seq.*
- 12 • Breach of Express Warranty in violation of CAL. COM. CODE § 2313.
- 13 • Breach of Implied Warranty of Merchantability in violation of CAL. COM.
14 CODE § 2314.
- 15 • Breach of Contract/Common Law Warranty.
- 16 • Fraud by Concealment.
- 17

18 The Economic Loss Plaintiffs also identify the following proposed Bellwether
19 Commercial Economic Loss Subclasses (the applicable legal claim for each Subclass
20 is violation of the California Unfair Competition Law , CAL. BUS. & PROF. CODE §
21 17200, *et seq.*):
22

23 **a. The Sticky Pedal TREAD Act Subclass**

24 All persons or entities who, from January 17, 2008 to
25 January 27, 2010, purchased or leased in the State of
26 California the following models and model years: 2007-
27

1 10MY Tundra; 2008-10MY Sequoia; 2005-10MY Avalon;
2 2007-10MY Camry; 2009MY Camry HV; 2009-10MY
3 Corolla; 2009-10MY Matrix; 2009-10MY RAV4; and
4 2010MY Highlander.

5 **b. The Pedal Entrapment TREAD Act Subclass**

6 All persons or entities who, from December 15, 2005 to
7 October 5, 2009, purchased or leased in the State of
8 California the following models and model years: 2007-
9 11MY Camry; 2005-10MY Avalon; 2004-09MY Prius;
10 2005-10MY Tacoma; 2007-10MY Tundra; 2007-10MY
11 Lexus ES350; 2006-10MY Lexus IS250/350; 2008-10MY
12 Highlander; 2009-10MY Corolla; 2009-10MY Venza; and
13 2009-10MY Corolla Matrix.
14
15

16 **II. THE PROPOSED BELLWETHER CLASS REPRESENTATIVES**

17 The Economic Loss Plaintiffs identify the following proposed Class
18 Representatives for each of the Proposed Bellwether Classes. Each proposed
19 Representative filed his or her suit in the United States District Court for the Central
20 District of California (with one exception), and each is identified in the Second
21 Amended Economic Loss Master Consolidated Complaint (“SAMCC”) or in
22 associated Complaints.⁶
23
24

25 ⁶ Appendix B identifies, for each Proposed Class Representative, the date of his
26 or her complaint, the court in which it was filed, and the cause number of the original
27 action. All cases were filed directly in the United States District Court for the
28 Central District of California, with the exception of the suit filed by Deluxe

1 Discovery is ongoing and may reveal the need to amend the Bellwether Class
2 Representative designations, and Plaintiffs reserve the right to alter the mix of
3 proposed Class representation at the time of moving for class certification to conform
4 to facts adduced during the course of discovery.

5
6 **A. The Proposed Class Representatives for the Proposed Bellwether
Consumer Class and Subclasses**

7 Kathleen Atwater (¶⁷ 34)

8 Dale Baldisserri (¶ 35)

9 Karina Brazdys (¶ 39)

10 Joseph Hauter (¶ 52)

11 Dr. Aly & Lucinda Mahmoud (¶ 109)

12 John Moscicki (¶ 113)

13 Peggie Perkin (¶ 59)

14 Thomas F. & Catherine A. Roe (¶ 62)

15 Janette & Tully Seymour (¶ 64)

16 Linda Tang (¶ 125)

17 Carol Danziger

18 Vuin Edward Epps

19 Ziva Goldstein

20
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23 Holdings, Inc., which was originally filed in Los Angeles Superior Court and
24 removed to the Central District. Because all of the Plaintiffs named herein filed suit
25 here in the Central District of California (or, in the case of Deluxe Holdings, Inc., in
26 State court in this District), there are no *Lexecon* concerns, and the trial of these
27 claims may proceed in this Court.

28 ⁷ “¶” references paragraphs in the SAMCC.

Tom Gudmundson

Linda Savoy

Elizabeth Van Zyl (¶ 66)

Rocco & Bridie Doino (¶ 44)

John & Mary Laidlaw (¶ 56)

Ada Morales

Judy Veitz

The Proposed Class Representatives for the Proposed Bellwether Consumer

Subclasses are:

1. *The Sticky Pedal TREAD Act Subclass*: Kathleen Atwater, Dale Baldisseri, Joseph Hauter, Carol Danziger, Vuin Edward Epps, Linda Savoy and Ada Morales.

2. *The Pedal Entrapment TREAD Act Subclass*: Dale Baldisseri, Karina Brazdys, Joseph Hauter, Linda Tang, John Moscicki, Vuin Edward Epps, Linda Savoy, Elizabeth Van Zyl and Ada Morales.

B. The Proposed Class Representatives for the Proposed Alternative Bellwether Consumer Classes

1. The Proposed Bellwether California Class Representatives

Kathleen Atwater (¶34)

Dale Baldisserri (¶ 35)

Karina Brazdys (¶ 39)

Joseph Hauter (¶ 52)

Dr. Aly & Lucinda Mahmoud (¶ 109)

John Moscicki (¶ 113)

Peggie Perkin (¶ 59)

Thomas F. & Catherine A. Roe (¶ 62)

Janette & Tully Seymour (¶ 64)

Linda Tang (¶ 125)

The Proposed Class Representatives for the Proposed Bellwether California
Consumer Subclasses are:

1. *The Sticky Pedal TREAD Act Subclass*: Kathleen Atwater, Dale
Baldisseri and Joseph Hauter.

2. *The Pedal Entrapment TREAD Act Subclass*: Dale Baldisseri, Karina
Brazdys, Joseph Hauter, Linda Tang and John Moscicki.

2. The Proposed Bellwether Florida Class Representatives

Carol Danziger

Vuin Edward Epps

Ziva Goldstein

Tom Gudmundson

Linda Savoy

Elizabeth Van Zyl (¶ 66)

The Proposed Class Representatives for the Proposed Bellwether Florida
Consumer Subclasses are:

1. *The Sticky Pedal TREAD Act Subclass*: Carol Danziger, Vuin Edward
Epps and Linda Savoy.

2. *The Pedal Entrapment TREAD Act Subclass*: Vuin Edward Epps,
Linda Savoy and Elizabeth Van Zyl.

3. The Proposed Bellwether New York Class Representatives

Rocco & Bridie Doino (§ 44)

John & Mary Laidlaw (§ 56)

Ada Morales

Judy Veitz

**C. The Proposed Bellwether Commercial Economic Loss Class
Representatives**

Green Spot Motors Co. (§ 74)

Deluxe Holdings Inc. (§ 85)

Both of these proposed Class Representatives are also proposed to represent
the Proposed Commercial Economic Loss Sticky Pedal and Pedal Entrapment
Subclasses.

Dated: September 20, 2011

Respectfully submitted,

By: /s/ Steve W. Berman

Steve W. Berman (WA SBN 12536)

HAGENS BERMAN SOBOL

SHAPIRO LLP

1918 Eighth Avenue, Suite 3300

Seattle, WA 98101

Telephone: (206) 268-9320

Facsimile: (206) 623-0594

Email: steve@hbsslaw.com

By: /s/ Marc M. Seltzer
Marc M. Seltzer (CA SBN 054534)

SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
Telephone: (310) 789-3102
Facsimile: (310) 789-3006
Email: mseltzer@susmangodfrey.com

By: /s/ Frank M. Pitre
Frank M. Pitre (CA SBN 100077)
COTCHETT, PITRE & MCCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577
Email: fpitre@cpmlegal.com

***Co-Lead Counsel for
Economic Loss Plaintiffs***

**APPENDIX A:
IDENTIFICATION OF RELEVANT TOYOTA VEHICLES**

The following Toyota vehicles and model years are included in the Proposed
Classes and are identified in Paragraph 137 of the SAMCC:

Toyota Vehicles

2001 – 2010	4Runner
2005 – 2010	Avalon
2002 – 2010	Camry
2007 – 2010	Camry HV
2003 – 2005	Celica (2ZZ-GE Engine)
2005 – 2010	Corolla (1ZZ-FE, 2AZ-FE, 2ZR-FE)
2007 – 2010	FJ Cruiser
2004 – 2010	Highlander
2006 – 2010	Highlander HV
1998 – 2010	Land Cruiser
2005 – 2010	Matrix (2AZ-FE, 2ZR-FE, 1ZZ-FE (Not 4WD))
2001 – 2010	Prius
2004 – 2010	Rav4
2001 – 2010	Sequoia
2004 – 2010	Sienna
2002 – 2008	Solara
2003 – 2004	Tacoma (5VZ-FE except Sport Model)

2005 – 2010	Tacoma
2000 – 2010	Tundra (not including the 2000-2002 with 5VZ-FE)
2009 – 2010	Venza
2004 – 2010	Yaris

Lexus Vehicles

2002 – 2003	ES300
2004 – 2006	ES330
2007 – 2010	ES350
1998 – 2006	GS300
2007 – 2010	GS350
1998 – 2000	GS400
2001 – 2007	GS430
2007 – 2010	GS450h
2008 – 2010	GS460
2003 – 2009	GX470
2010	HS250h
2008 – 2010	IS F
2006 – 2010	IS250
2010	IS250c
2001 – 2005	IS300
2006 – 2010	IS350
2010	IS350c
1999 – 2000	IS400

1	1998	LS400
2	2001 – 2006	LS430
3	2007 – 2010	LS460
4	2008 – 2010	LS600h
5	1998 – 2007	LX470
6	2008 – 2010	LX570
7	2004 – 2006	RX330
8	2007 – 2010	RX350
9	2006 – 2008	RX400h
10	2010	RX450h
11	1998 – 2000	SC300
12	1998 – 2000	SC400
13	2002 – 2010	SC430
14	<u>Scion Vehicles</u>	
15	2005 – 2010	Scion tC
16	2008 – 2010	Scion xB
17	2008 – 2010	Scion xD

**APPENDIX B:
IDENTIFICATION OF THE INITIAL COMPLAINTS
FILED BY EACH PROPOSED CLASS REPRESENTATIVE**

Proposed Representative	Date of Initial Complaint	Court in Which Initial Complaint Filed	Cause Number
Kathleen Atwater	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
Dale Baldisserri	12/22/09	C.D. Cal.	09-cv-09386-JVS-FMO
Karina Brazdys	10/27/11	C.D. Cal.	10-ml-02151-JVS-FMO
Joseph Hauter	01/22/11	C.D. Cal.	10-cv-00105-JVS-FMO
Dr. Aly & Lucinda Mahmoud	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
John Moscicki	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
Peggie Perkin	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
Thomas F. & Catherine A. Roe	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
Janette & Tully Seymour	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
Linda Tang	03/17/11	C.D. Cal.	10-cv-01939-JVS-FMO
Carol Danziger	09/20/11	C.D. Cal.	11-cv-07778 VBF (PJW _x)
Vuin Edward Epps	09/20/11	C.D. Cal.	11-cv-07778 VBF (PJW _x)
Tom Gudmundson	03/19/10	C.D. Cal.	10-cv-02021-JVS-FMO
Ziva Goldstein	09/20/11	C.D. Cal.	11-cv-07778 VBF (PJW _x)
Linda Savoy	09/20/11	C.D. Cal.	11-cv-07778 VBF (PJW _x)
Elizabeth Van Zyl	03/24/10	C.D. Cal.	10-cv-02147-JVS-FMO
Rocco & Bridie Doino	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
John & Mary Laidlaw	10/27/10	C.D. Cal.	10-ml-02151-JVS-FMO
Ada Morales	09/20/11	C.D. Cal.	11-cv-07778 VBF (PJW _x)
Judy Veitz	09/20/11	C.D. Cal.	11-cv-07778 VBF (PJW _x)
Deluxe Holdings, Inc.	03/08/10	Los Angeles County Superior Court	BC433537
Green Spot Motors Co.	03/12/10	C.D. Cal.	10-cv-00312-JVS-FMO

PROOF OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on September 20, 2011.

/s/ Steve W. Berman
Steve W. Berman